IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 26712 of 2003(E)

PETITIONER:

PAVANAN. T., KOITHURUTHY HOUSE,
MANICHERI P.O., KANNUR.

BY ADV. SRI.JOHNSON P.JOHN
SRI.RAJU SEBASTIAN VADAKKEKKARA

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, POWER DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVAN, THIRUVANANTHAPURAM,
REP. BY ITS SECRETARY.

3. KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM, REP. BY ITS SECRETARY.

*4. SOORAJ.N.R., S/O. NEELANGAGAN,
TC 2/1046, CHARUVILLA LANE,
PAZHAYA ROAD, MEDICAL COLLEGE,
THIRUVANANTHAPURAM – 11.

(*IMPLEADED AS ADDITIONAL 4TH RESPONDENT AS PER ORDER DATED 29/06/06 IN I.A.No 17308/04.)

BY ADV. SRI.C.C.THOMAS, SC, K.S.E.B
SRI.P.C.SASIDHARAN, SC, KPSC
SRI.P.SANTHALINGAM, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, ALONG WITH WPC NO. 37092 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 26712/2003

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ADVICE MEMO DATED 04/09/01.

P2 : COPY OF THE ORDER NO.EB3/108/2002 DATED 31/8/2002.

P3 : COPY OF THE JUDGMENT DATED 25/6/03 IN O.P.No. 9575/2003.

P4 : COPY OF THE ORDER DATED 22/7/03.

P5 : COPY OF THE STATEMENT DATED 23/7/03 FILED BY KSE BOARD.

P6 : COPY OF THE TRANSFER ORDER DATED 30/06/03.

P7 : COPY OF THE LIST OF NON ELIGIBLE STAFF WORKING AS CASHIERS IN KSEB.

P8 : COPY OF THE POSTING ORDER DATED 24/10/02.

P9 : COPY OF THE POSTING ORDER DATED 12/8/2004.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) Nos. 26712 & 37092 of 2003

Dated, this the 29th day of March, 2007

J U D G M E N T

Petitioners along with others were selected by PSC for appointment as Junior Assistant-cum-Cashier in KSEB. Based on advise by PSC some in the list were appointed. However KSEB did not fill up the entire vacancies on the ground that restructuring is contemplated to reduce staff strength. Pending restructuring, this Court passed orders directing KSEB to appoint those to whom advise was given by PSC including petitioners with freedom to retrench them, so that they can claim employment against future vacancies. Accordingly, petitioners were appointed and retrenched vide Ext.P3 in WPC 37092/2003. Thereafter it is admitted that later petitioners were appointed by KSEB on regular basis. The remaining question is only about seniority among those, who were appointed from the same PSC list. Petitioners have a case that retrenchment itself is illegal because at the time of their retrenchment those who were junior in service were retained. In any case, since retrenchment is over, all the remains is only fixation of seniority among the general category of employees who were

selected by PSC through the common test and advised for appointment. The provision for seniority is clear because Rule 27 of KSSR provides for seniority based on date of advice by PSC, which is to be followed by KSEB irrespective of date of joining in service, retrenchment and rejoining under Court orders. Petitioners are free to point out the corrections required in seniority list, which KSEB will consider and make changes after hearing all the parties adversely affected. Hence, I direct KSEB to prepare seniority list based on the Rules without any delay, if not already done.

These WPCs are disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg